

**From:** [Payne, James](#)  
**To:** [Coleman, Sam](#); [Gray, David](#); [Edlund, Carl](#); [Ruhl, Christopher](#); [Honker, William](#); [Garcia, David](#); [Brown, Jamesr](#); [Ngo, Kim](#); [Dwyer, Stacey](#)  
**Cc:** [Quinones, Edwin](#); [Harrison, Ben](#); [Peycke, Mark](#); [Seager, Cheryl](#)  
**Subject:** Fwd: Ergon Asphalt & Emulsions-Corpus Christi  
**Date:** Saturday, December 17, 2016 12:00:50 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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Forwarding this communication from attorney Molly Cagle.

Jim  
214-490-6707 cell

Sent from my iPhone

Begin forwarded message:

**From:** <[molly.cagle@bakerbotts.com](mailto:molly.cagle@bakerbotts.com)>  
**Date:** December 17, 2016 at 11:08:26 AM CST  
**To:** <[payne.james@epa.gov](mailto:payne.james@epa.gov)>, <[quinones.edwin@epa.gov](mailto:quinones.edwin@epa.gov)>  
**Cc:** <[KWatson@whjpllc.com](mailto:KWatson@whjpllc.com)>, <[Houston.Ezell@ergon.com](mailto:Houston.Ezell@ergon.com)>, <[Scott.Janoe@BakerBotts.com](mailto:Scott.Janoe@BakerBotts.com)>  
**Subject:** Ergon Asphalt & Emulsions-Corpus Christi

Ergon Asphalt & Emulsions, Inc. leases property and receives water service from Valero Marketing & Supply Company's asphalt terminal. On or about December 14, 2016, state and federal authorities made the decision to terminate all water use from the City of Corpus Christi. We understand that you determined that a soap solution at Ergon Asphalt & Emulsions may have back flowed beyond the boundary of the Valero complex.

The back flow occurred from a tank that contained a soap solution with approximately 98% water. The active ingredient in the soap solution was Indulin AA-86, a proprietary product manufactured by a third party. Indulin AA-86 was not released in pure form, but only as a small fraction of the soap solution. When TCEQ and EPA authorities asked Ergon about the contents of the tank, Ergon immediately provided all the information that we had regarding the soap solution, which included a Safety Data Sheet (SDS). Ergon also coordinated communications between the third party manufacturer of Indulin AA-86 and TCEQ and EPA, and subsequently confirmed that the authorities got all the information available (chemistry of the

Indulin AA-86 and testing methodology) to determine whether the soap solution was present in the City's water lines.

To our knowledge, Ergon Asphalt & Emulsions has done everything we have been asked by local, state and federal authorities to help resolve this situation as quickly as possible. In addition, Ergon has offered to assist, for example, to cover the costs of expediting laboratory testing. We have been afforded little useful information from the agencies since the announced termination of water service, but Ergon remains ready to meet at any time. Ergon has met with City representatives and has repeatedly asked the City for samples from the water lines so that we too can conduct testing to expedite a resolution, but samples have not yet been shared with Ergon. Ergon understands that Valero has shared with the City and government authorities schematics of the piping at the Valero complex to assist in evaluating whether it was possible for the soap solution to have back flowed into the City water line. Careful evaluation of that information along with detailed information in the City's possession regarding its distribution system led the City to declare that any backflow could simply not have entered the distribution system in Zone 1 and was very unlikely to have entered Zone 2.

To our knowledge, there is no data indicating that any soap solution entered the City water lines. Ergon specifically requests that the authorities allow it to collect water samples in Zones 2 and 3, to collect split samples or to share water samples in the possession of EPA, TCEQ and the City, so that Ergon can assist in supporting the efforts to confirm the safety of City water.

Ergon Asphalt & Emulsions is cooperating fully with all authorities. If there is anything more that the company can do to assist and expedite the agencies' investigation, please let us know immediately. We are anxious to ensure that water is restored as soon as possible. Ergon is committed to the Corpus Christi community and stands ready to assist the EPA, TCEQ and the City with any additional requests that will facilitate a rapid resolution of the situation.

**Molly Cagle**

**Partner**

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